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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,387	10/16/2001	Nobuo Takahashi	Q66634	3087

7590 06/02/2005

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

EXAMINER

KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,387

Applicant(s)

TAKAHASHI, NOBUO

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin in view of Amazon.com.

Dworkin teaches a system and method for automated selection of equipment for purchase through input of user desired specifications.

Dworkin teaches an automated system assists a user in locating and purchasing goods or services sold by a plurality of vendors. In operating the system, the user first indicates the general type of product or service desired. The system responds by displaying a template giving specifications for the type of product or service selected. The user then fills in one or more blank spaces in the template, to tell the system the minimum desired specifications for the product or service. The computer then searches the database to retrieve all products or services, within the product or service category selected, having the specifications required by the user. The system display such products or services to the user, who can request more detailed information about a particular product or service, or information on vendors and prices. The user can then select one or more items for immediate purchase, and the system automatically transmits the order to the appropriate vendor (abstract). Examiner notes that this represents the buyer placing an order for an item based on product identifier.

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Dworkin further teaches on Figure 7, a pricing chart for the items to be sold. Examiner notes that the pricing chart represents an indication by the buyer of the quantity to be purchased. Examiner further notes that this illustrates that the selling price for an item is less expensive for a larger total order quantity.

Dworkin further teaches that the system calculates a final sales price based on shipping and taxes and “transmits the order to the appropriate vendor”. (e.g. abstract and column 8; lines 38-56. Examiner notes that this represents the system determining a final selling price and the supplier receiving the final selling price from the system.

Examiner notes that while Dworkin does teach calculating shipping charges, the reference fails to specifically mention that the cost associated with those charges decreases as the period between time of order and delivery date increases. Amazon.com teaches shipping costs decrease as the length of time to receive the item increases. This becomes the case as it allows a user to have multiple shipping options and to pay a premium for faster service. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dworkin to include variable shipping costs decrease as the delivery date increases as taught by Amazon.com in order to allow a user various shipping options. Examiner notes that in this modified teaching the final cost would thus be determined based on quantity ordered and length of time till delivery.

It is the practice of the Office to utilize “The WayBack Machine” at www.archive.org. The Internet Archive is a comprehensive library of Internet sites and other cultural artifacts in digital form. The Wayback Machine is a free service allowing people to access and use archived versions of past web pages within the Internet Archive. Visitors to the Wayback Machine can

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type in a URL, select a date range, and then will be able to search and view the Internet Archive's enormous collection of web sites, dating back to 1996 and comprising over 10 billion web pages.

Examiner notes that the reference for www.amazon.com was found using the Wayback Machine.

Response to Arguments

Applicant's arguments filed 3/18/05 have been fully considered but they are not persuasive.

Applicant asserts that Dworkin in view of Amazon.com does not teach a selling price based on a total order quantity for a particular delivery date that has previously been accepted by the time order acceptance has been closed.

Examiner disagrees and notes that the order quantity is in fact a component of both the ordering systems of Dworkin and Amazon.

Applicant asserts that the relevance of this feature is that prices are determined to be less expensive for earlier orders to induce purchasers to place orders sooner and notes the specification. Examiner notes that to read this into the claim would be improper.

Rather, based on the broadest reasonable interpretation of the claim limitation, Examiner notes that the combination of Dworkin in view of Amazon merely needs to account for a quantity ordered, which includes just one product. Further the price of an order always includes the quantity ordered, as neither Dworkin nor Amazon give products away for free.

Applicant asserts that the combination of Dworkin in view of Amazon does not teach resetting the base price. Examiner disagrees and points to the table on Figure 7 of Dworkin and notes that the price resets for each new order.

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Applicant asserts the Dworkin in view of Amazon does not estimate a price on the basis of so-far accepted total order quantity. Examiner once again points to the price table on Figure 7 and notes that it represents a estimate of a price based on a quantity of ordered products.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

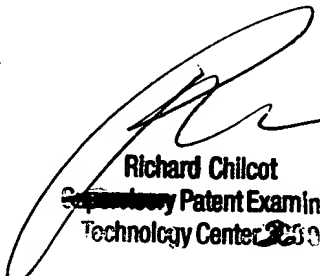
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272 6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
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jak

 6/1/05
Richard Chilcot
Supervisory Patent Examiner
Technology Center 250